

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

<p><b>MICHAEL SGRO,</b> Plaintiff,</p> <p>v.</p> <p><b>SERGEANT J. BANKS,</b> Defendant.</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>C.A. No. 24-93 Erie</p> <p>District Judge Susan Paradise Baxter Magistrate Judge Christopher B. Brown</p>
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**MEMORANDUM ORDER**

Plaintiff Michael Sgro, an inmate incarcerated at the State Correctional Institution at Albion, Pennsylvania, initiated this action on April 4, 2024, by filing a motion to proceed *in forma pauperis* (“ifp motion”) [ECF No. 1], along with an attached *pro se* civil rights complaint [ECF No. 1-2]. This matter was initially referred to Chief United States Magistrate Judge Richard A. Lanzillo and was subsequently reassigned to United States Magistrate Judge Christopher B. Brown for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. §636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

Plaintiff’s ifp motion was granted on October 29, 2024 [ECF No. 5], and the attached complaint was docketed at that time [ECF No. 6]. In the complaint, Plaintiff alleges that Defendant verbally harassed him, slammed his wicket door shut, and kicked his cell door in violation of his rights under the eighth amendment to the United States Constitution.

On January 6, 2025, Judge Brown issued a report and recommendation (“R&R”) recommending that this action be dismissed as legally frivolous for failure to state a claim upon which relief may be granted, in accordance with 28 U.S.C. § 1915(e). [ECF No. 9]. In particular,

Judge Lanzillo found that Plaintiff's claim alleges conduct that is *de minimis*, and allowing amendment of the claim would be futile. No timely objections to the R&R have been filed by Plaintiff.

After *de novo* review of the complaint and documents in this case, together with the report and recommendation, the following order is entered:

AND NOW, this 28<sup>th</sup> day of February, 2025;

IT IS HEREBY ORDERED that the report and recommendation of Magistrate Judge Brown, issued January 6, 2025 [ECF No. 9], is adopted as the opinion of the Court, and this action is DISMISSED as frivolous, pursuant to 28 U.S.C. § 1915(e), based on Plaintiff's failure to state a claim upon which relief may be granted. Since amendment of Plaintiff's claim would be futile given the *de minimis* nature of Defendant's alleged conduct, such dismissal is with prejudice.

The Clerk is directed to mark this case "CLOSED."



SUSAN PARADISE BAXTER  
United States District Judge

cc: The Honorable Christopher B. Brown  
United States Magistrate Judge  
all parties of record